

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 26, 2006

In Reply Refer To:
Southwest Power Pool, Inc.
Docket Nos. ER06-641-001
ER06-451-004

Wright & Talisman, P.C.
Attn: Michael E. Small, Esq.
Attorney for Southwest Power Pool, Inc.
1200 G Street, NW - Suite 600
Washington, DC 20005

Dear Mr. Small:

1. On June 13, 2006, you submitted on behalf of Southwest Power Pool, Inc. (SPP) revised pages to SPP's Open Access Transmission Tariff (OATT) containing changes to the executed external market monitor services agreement (EMM Agreement) in compliance with the Commission's order issued April 14, 2006.¹ You request an effective date of January 1, 2006. You state that, as required by the April 14 Order, SPP has incorporated several revisions to the EMM Agreement including a revision to provide for monitoring by the external market monitor prior to implementation of SPP's energy imbalance services market (imbalance market). As discussed below the revised tariff sheets in your filing are accepted, as modified, effective January 1, 2006.

Background

2. On February 15, 2006, SPP filed a new EMM Agreement (Attachment AJ) that delineated certain responsibilities of the external market monitor to replace its existing market monitoring services contract. Earlier, SPP had submitted proposed tariff provisions (Attachment AG) that stated that an internal market monitor would primarily perform the market monitoring and report to SPP's President and SPP's Board of Directors (Board). Since Attachment AG is not effective until the date of the imbalance

¹ See *Southwest Power Pool, Inc.*, 115 FERC ¶ 61,051 (2006) (April 14 Order), *reh'g pending*.

market implementation,² SPP was directed to modify the proposed EMM Agreement to provide that the external market monitor would meet all of the Commission's prescribed requirements for regional transmission organization (RTO) market monitoring for the period January 1, 2006 to the date of the imbalance market implementation.³

3. SPP was also directed to modify the proposed EMM Agreement to clarify that: (1) SPP's Board will not unreasonably withhold its permission for the external market monitor to respond to the stakeholder concerns;⁴ (2) the external market monitor will assess how behavior in markets operated by other RTO markets affects SPP operations and how SPP operations affect the performance of markets operated by other RTOs;⁵ (3) the external market monitor will report to the Commission in a timely manner any violations of the Commission's regulations on market manipulation;⁶ (4) SPP's Board may only delegate its authority over the external market monitor to the Compliance Committee;⁷ and (5) SPP's Board and Compliance Committee, but not the internal market monitor, can authorize the attendance of the external market monitor at stakeholder meetings.⁸ In addition, SPP was directed to clarify which reports would be prepared and reviewed by the external market monitor as well as provide a short description of these reports in the EMM Agreement.⁹ SPP was also directed to add language to the termination provision of the EMM Agreement that any termination of the EMM Agreement is subject to the approval of the Commission.¹⁰ Finally, SPP was directed to revise the table of contents and correctly designate the tariff sheet with the revised table of contents.¹¹

4. Therefore, SPP's filing was conditionally accepted and made effective January 1, 2006, subject to a compliance filing. The Commission found that a modified EMM Agreement coupled with the market monitoring plan in Attachment AG clarifies the division of responsibilities between SPP's internal and external market monitors once

² See *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289, at P 129-143 (2006).

³ April 14 Order at P 20.

⁴ *Id.* at P 24.

⁵ *Id.* at P 28.

⁶ *Id.*

⁷ *Id.* at P 34.

⁸ *Id.* at P 41.

⁹ *Id.* at P 50-51.

¹⁰ *Id.* at P 52.

¹¹ *Id.* at P 21.

SPP's imbalance market is implemented. The Commission also found that to the extent that any responsibilities overlap, these tariff provisions also provided for a means of resolution in cases of conflict between the market monitors.¹²

Notice of Compliance Filing, Intervention and Protest

5. Notice of the filing was published in the *Federal Register*, 71 Fed. Reg. 35,886 (2006), with interventions and protests due on or before July 5, 2006. Southwest Industrial Customer Coalition filed a timely intervention. Missouri Joint Municipal Electric Utility Commission, Oklahoma Municipal Power Authority and the West Texas Municipal Power Agency (collectively, TDU Intervenors) filed a limited protest stating that SPP failed to include two of the functions in its tariff sheets as specified by the Commission.

6. SPP filed an answer to TDU Intervenors' protest. In its answer, SPP provides a letter from the external market monitor stating that the external market monitor will perform the two functions that were ordered by the Commission but not specified in the EMM Agreement. SPP argues that the Commission should not direct SPP to revise the EMM Agreement because such revision would require approval of the SPP Board of Directors and the external market monitor and would likely be effective for a very short amount of time prior to the start of the imbalance market.

Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motion to intervene serves to make Southwest Industrial Customer Coalition a party to this proceeding. We are not persuaded to accept SPP's answer and will therefore reject it.

Discussion

8. TDU Intervenors argue that SPP has failed to comply with two of the directives of the April 14 Order. First, TDU Intervenors state that SPP did not amend its OATT to provide that, prior to the imbalance market implementation, the external market monitor would assess how SPP operations affect the performance of markets operated by others. Second, TDU Intervenors state that SPP failed to include provisions that would require the external market monitor, prior to imbalance market implementation, to report to the Commission in a timely manner any violations of the Commission's regulations on market manipulation. TDU Intervenors note that while SPP states in its transmittal letter

¹² *Id.* at P 18.

that it included both of these provisions in its OATT, it failed to include revisions to its OATT in the instant compliance filing. TDU Intervenor request that the Commission direct SPP to revise the EMM Agreement accordingly.

9. In the April 14 Order, the Commission directed SPP to revise the EMM Agreement to provide that the external market monitor will assess how behavior in markets operated by other RTO markets affects SPP operations and how SPP operations affect the performance of markets operated by other RTOs for the period prior to imbalance market implementation.¹³ In addition, SPP was directed to modify the EMM Agreement to clarify that the external market monitor will report to the Commission in a timely manner any violations of the Commission's regulations on market manipulation.¹⁴

10. We find that SPP has failed to comply with the two directives of the April 14 Order related to reporting as observed by TDU Intervenor. We note that a letter signed by a representative of the external market monitor pledging to accomplish these two Commission directives does not have the same force and effect as tariff sheets and thus does not constitute compliance with the Commission's directives. Accordingly, SPP is directed to revise the section on the external market monitor's responsibilities prior to imbalance market implementation under Exhibit A of EMM Agreement to state that:

2. Periodically assessing whether behavior in the markets in SPP's region that are operated by others affects SPP's operations *and how SPP's operations affect the performance of markets operated by others.*¹⁵

Under the same section, SPP is also directed to add the emphasized language as follows:

3. Filing with the Federal Energy Regulatory Commission and other affected regulatory bodies reports on market design flaws, market power abuses in the market operated by SPP, *including (without limitation) reporting in a timely manner any violations of the Commission's regulations on market manipulation, and on opportunities of market efficiency.*¹⁶

Additionally, on the same page, SPP should revise the word "Responsibilities" so that the title reads "Responsibilities Prior to Market Implementation."

¹³ *Id.* at P 28.

¹⁴ *Id.*

¹⁵ SPP Tariff, Second Revised Sheet No. 702 (italics added to show new language).

¹⁶ *Id.*

11. The Commission hereby accepts, as modified, SPP's revisions to the EMM Agreement to be effective January 1, 2006, as requested. The Commission directs SPP to submit modified tariff sheets to comply with the directives discussed above no later than 30 days from the date of this order.

By direction of the Commission.

Magalie R. Salas,
Secretary.